

**ZONING BOARD OF APPEALS**

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ZBA 2010-61
Petition of Patrick Ahearn
7 Arlington Road

Pursuant to due notice, the Special Permit Granting authority held a Public Hearing on Thursday, August 5, 2010 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of PATRICK AHEARN requesting a Variance pursuant to the provisions of Section XIX and Section XXIV-D of the Zoning Bylaw for demolition of an existing nonconforming garage and construction of a new garage with less than required right side yard setbacks, on a 19,108 square foot lot in a district in which the minimum lot size is 20,000 square feet, at 7 ARLINGTON ROAD.

On July 19, 2010, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

After motion duly made and seconded, the Board voted unanimously to approve the request to change the petition for a Variance to a petition for a Special Permit/Finding.

Presenting the case at the hearing was Michael Tartamella, Architect, Ahearn Schopfer & Associates (the "Petitioner"), who said that he was representing the homeowners, Jesse and Christine Brown.

Mr. Tartamella submitted updated plans for the garage that included Total Living Area plus Garage (TLAG) calculations.

Mr. Tartamella said that the lot is in a 20,000 square foot Single Residence District. He said that the lot is 19,108 square feet, which is nonconforming.

Mr. Tartamella said that the proposal is to replace the existing 12 foot by 20 foot garage that is located in the northwest corner. He said that the garage is accessed by a driveway on the north side of the lot from Arlington Road. He said that the lot line is skewed to the garage. He said that the setbacks vary from 11 feet 9 inches at the rear corner of the garage to 9 feet 6 inches at the front corner. The Board said that those dimensions are expressed as decimals on the plot plan. Mr. Tartamella said that the dimensions on the plot plan are correct.

Mr. Tartamella said that there is an existing concrete deck and pool.

Mr. Tartamella said that the house recently underwent a substantial restoration. He said that the existing TLAG calculation is 4,353 square feet. He said that the proposed TLAG will be 4,657. He said that the Large House Review (LHR) threshold is 5,900 square feet for the district.

Mr. Tartamella said that the proposal is to replace the existing one-car garage with a two-car garage with a small changing area off of the side to service the pool. He said that the proposed structure will meet the 20 foot rear yard setback. He said that the side yard setback will be increased to 10 feet 4 inches. He said that by increasing the side yard setback, the proposed structure will not be substantially more detrimental to the neighborhood.

Mr. Tartamella said that 195 square feet of the existing garage is located in the 20 foot side yard setback area. He said that 206 square feet of the proposed structure will be in the 20 foot side yard setback area, yielding a net increase of 11 square feet.

Mr. Tartamella displayed an overhead photograph (retained by proponent). He said that many of the houses in the neighborhood have detached two-car garages that appear to be within the 20 foot side yard setback area. He said that they spoke with the direct abutter at 5 Arlington Road and received a letter of support.

Mr. Tartamella said that there are good size trees on the property line that are to remain.

Mr. Tartamella said that the homeowners are a young family. He said that they have a two-year old daughter and another child on the way. He said that the proposed construction is in keeping with the restoration of the house and with the other houses in the neighborhood.

The Board said that the proposed garage was well designed. The Board said that it reviews many requests to change one-car garages to two-car garages. The Board said that it traditionally does not allow plumbing in garages. The Board said that the proposal is to construct approximately 350 to 400 square feet of storage space on the second floor of the garage. The Board said that the proposal seems to be for a structure that is more than a two-car garage. The Board said that the proposed garage is significantly larger than the existing one.

Mr. Tartamella said that the downstairs portion of the main house doesn't lend itself to use of the bathroom from the pool. He said that the basement of the house does not have any bathrooms. He said that most of that space is crawlspace.

Mr. Tartamella said that the proposed structure off of the side of the garage was to service the pool area. He said that there was no intention to finish the second floor of the garage for living space. He said that there was no intention to provide facilities for living, eating or cooking in the structure off of the side of the garage. He said that structure is well beyond the 20 foot side yard setback. He said that it could be built as a detached unit. He said that they attached it to the side of the garage to preserve open space.

Mr. Tartamella submitted photographs of the main house.

Mr. Tartamella said that it made sense to attach the accessory building to the garage to preserve open space and for accessibility to the pool. The Board said that it was concerned about the size of the proposed structure and the proposal for a full bathroom. Mr. Tartamella said that there was only an outdoor shower is proposed. He said that they would be willing to close off access from the garage.

The Board said that the height of the proposed garage will be approximately 8 feet higher than the existing garage. The Board said that there will be significant massing with the proposed structure.

Mr. Tartamella said that the pool deck drops off in the rear yard. He said that there is an existing retaining wall. He said that there is a significant amount of screening. He said that what is driving the two pieces together is the intent to scale down the architecture and keep the structures together on the lot.

The Board asked if the reason to have a full bath and kitchen facilities in the pool accessory structure is because those facilities are not readily available on the first floor of the main house.

Mr. Tartamella displayed plans of the first floor of the main house (retained by proponent). He said that there is a small half-bath under the stairs with a very low ceiling. He said that it would be a difficult route to maneuver with two small children.

Mr. Tartamella said that the proposed pool accessory building would have a half-bath with an outdoor shower. He said that there will be no cooking facilities. He said that they would be willing to put a deed restriction on that there be no eating, sleeping, living or cooking allowed in the proposed garage/pool shed structure.

Mr. Tartamella said that the outdoor shower was what drove the additional plumbing on the inside. He said that they have done similar structures in town that were conforming.

The Board asked about the dormers on the proposed garage. Mr. Tartamella said that they were added to complement the architecture of the house. The Board said that the dormers also add significant space. Mr. Tartamella said that a good portion of the basement of the main house is crawlspace. He said that they were looking to gain storage space.

Mr. Tartamella discussed alternative locations for the pool accessory structure.

Mr. Tartamella asked if the Board could grant a Special Permit for an attached pool accessory structure that had no plumbing. He said that they could eliminate the half-bath and sink. He asked if they could keep the outdoor shower. The Board said that it was not comfortable with allowing any plumbing in the proposed structure. Mr. Tartamella said that they would eliminate all of the proposed plumbing.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 7 Arlington Road, on a 19,108 square foot lot in a district in which the minimum lot size is 20,000 square feet, with a minimum right side yard setback of 9.6 feet.

The Petitioner is requesting a Special Permit/Finding that demolition of an existing nonconforming garage and construction of a new garage with less than required right side yard setbacks, on a 19,108 square foot lot in a district in which the minimum lot size is 20,000 square feet, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 6/14/10, stamped by stamped by Daniel J. Tivnan, Professional Land Surveyor, Proposed Site Development Plan, dated 6/22/10, revised 8/5/10, Existing and Proposed Floor Plans and Elevation Drawings, dated 6/22/10, revised 8/5/10, prepared by Patrick Ahearn, and photographs were submitted.

On August 3, 2010, the Planning Board reviewed the petition for a Variance and recommended that the request be denied.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing.

It is the opinion of this Authority that although demolition of an existing nonconforming garage and construction of a new garage with less than required right side yard setbacks, on a 19,108 square foot lot in a district in which the minimum lot size is 20,000 square feet is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted for demolition of an existing nonconforming garage and construction of a new garage with less than required right side yard setbacks, on a 19,108 square foot lot in a district in which the minimum lot size is 20,000 square feet, subject to the following conditions:

1. There shall be no plumbing in the garage/pool shed structure.
2. Plans shall be submitted showing that all plumbing fixtures have been removed.
3. Existing screening shall be maintained.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

If construction has not commenced, except for good cause, this Special Permit shall expire two years after the date time-stamped on this decision.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

J. Randolph Becker, Acting Chairman

Robert W. Levy

David L. Grissino

cc: Planning Board
Inspector of Buildings
lrm